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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 Brandon Dale Lowery,

7 Plaintiff,

8 v.

9 Governor Joe Lombardo; State of Nevada,

10 Defendants.

Case No. 2:24-cv-01117-GMN-DJA

Report and Recommendation

11 On July 11, 2024, the Court screened Plaintiff's complaint and dismissed it, giving
12 Plaintiff until August 12, 2024, to file an amended complaint. (ECF No. 5). In doing so, the
13 Court informed Plaintiff that "[f]ailure to comply with this order will result in the recommended
14 dismissal of this case." (*Id.*). Plaintiff missed that deadline. On September 16, 2024, the Court
15 ordered Plaintiff to show cause why the Court should not dismiss the action for Plaintiff's failure
16 to prosecute it. (ECF No. 7). The Court required Plaintiff to file a response to that order on or
17 before October 16, 2024. (*Id.*). The Court again warned Plaintiff that failure to comply with the
18 order "will result in the recommended dismissal of this case." (*Id.*). Plaintiff has again missed
19 that deadline and, to date, has not filed anything further in this action. The Court thus
20 recommends that Plaintiff's case be dismissed without prejudice. A dismissal without prejudice
21 allows Plaintiff to refile a case with the Court, under a new case number.

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23 Accordingly, the undersigned **RECOMMENDS** that this case be **DISMISSED** without
24 prejudice. The Clerk of Court is kindly directed to send this recommendation to Plaintiff by
25 email.¹

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28 ¹ Plaintiff has not included a physical address with his filings.

NOTICE

Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within (14) days after service of this Notice. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985), *reh'g denied*, 474 U.S. 1111 (1986). The Ninth Circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

DATED: October 30, 2024



DANIEL J. ALBRECHTS
UNITED STATES MAGISTRATE JUDGE